

2003 Summary of Interim Committee Activities

JUDICIAL DISTRICT AND JUDICIAL RESOURCES STUDY COMMITTEE

Cochairpersons: Senator Don Redfern and Representative Gene Maddox

Members: Senators Keith Kreiman and Donald Redfern; Representatives Gene Maddox and Kurt Swaim; Public Members Sheriff Dennis Anderson, Megan M. Antenucci, Jackie Armstrong, Mike Bollard, Curt Campbell, Judge Stephen Clarke, Virginia Cobb, Deborah Dice, Tom Drew, Jay Eaton, Barbara A. Edmondson, Shirley Faircloth, Joe Holland, Fred James, Julie Johnson, Carmen Loveland, John McClintock, Rhonda Millhollin, Judge John Nahra, Randy Osborn, Carolee Philpott, Judge David Remley, Elisabeth Reynoldson, Marty Ryan, Judge Annette Scieszinski, H Richard Smith, and Justice Marsha Ternus

Charge. Based upon the request contained in 2003 Iowa Acts, House File 694, section 66, a 31-member interim study committee was to be established to study judicial district and judicial election district redistricting, the allocation of Judicial Branch resources, and the other items listed in the legislation.

Overview. The Judicial District and Judicial Resources Study Committee was created for the 2003 Legislative Interim by the Legislative Council pursuant to a request in legislation. The Committee met for one day each in October, November, and December 2003. At the October meeting testimony was provided about the current system, a 2002 Judicial Branch study, and the positions held by the constituencies represented on the study committee. In November, the Committee discussion focused on alleviating judicial workload disparity between the judicial districts. In December, discussion focused on potential recommendations.

October 7, 2003, Meeting

Staff Background Information. Mr. Joe McEniry of LSA Legal Services spoke about the charge of the Committee and House File 694, which passed during the 2003 Legislative Session. The highlights of House File 694 include a potential 180-day delay for judicial nominations for budgetary reasons, a clerk of the district court may serve in four contiguous counties in the same district, satellite magistrate offices may be reinstated if the city pays the extra costs incurred by the Judicial Branch, judicial district and judicial election district reorganization is to start in 2012 and reoccur every 10 years thereafter, transfers of judgeships by attrition, and voluntary permanent transfers of district court judges.

Ms. Jennifer Acton of LSA Fiscal Services reported that the Judicial Branch budget was \$116,623,446 in FY 2000-2001 and is estimated to be \$119,877,526 in FY 2003-2004.

Judicial Branch Position. Mr. David Boyd, State Court Administrator, stated the 2002 Iowa State Supreme Court Advisory Committee on Judicial Branch Redistricting was charged to submit a redistricting plan, and choosing not to redistrict was not an option for the advisory committee. The advisory committee submitted three redistricting plans to the Supreme Court, but the Supreme Court chose not to submit the plans to the General Assembly for consideration until the legislative interim committee studied the issue of redistricting.

He further stated that the Supreme Court supports redistricting for the following reasons: 1) the structure of the courts has not changed since 1972; 2) caseloads follow population trends; and 3) there is a clear disparity of the allocation of judicial officer resources. He commented that the voluntary transfer of judges from one judicial election district to another judicial election district is not a good option; it is unfair to the people of the district who nominated and elected to retain the judge, and it is unfair to the district that receives the judge because the judge was never nominated or retained by the new district. He responded to questions regarding the transfer of judgeships and other resource allocation approaches.

2002 Iowa Supreme Court Advisory Committee on Judicial Branch Redistricting. Judge Daniel Remley, Advisory Committee Cochairperson, acknowledged a number of advisory committee members were opposed to

redistricting, but the advisory committee proposed three plans for submission to the Supreme Court, using a ground up approach to redistricting. He said commuting patterns and population trends were considered, and that judicial election districts should be determined before the judicial districts. The advisory committee recommended increasing the number of judicial election districts from 14 districts to 16 districts to ensure more small town- and rural-based lawyers have a chance at a judgeship. Senator Keith Kreiman asked whether the disparity in caseloads could be addressed without redistricting. Judge Remley replied that the disparity needs to be addressed now. Judge Stephen Clarke commented that changing the judicial districts impacts juvenile court officers and the judicial district departments of correctional services, and brings into question whether redistricting is worth it. He further commented that the larger the districts become, the more difficult it becomes for a judge to perform effectively, because the judge has a greater area to cover and the judge becomes less familiar with the communities assigned. Ms. Jackie Armstrong, representing the Iowa Trial Lawyers Association, commented that she had concerns about the National Center for State Courts (NCSC) workload study formula because only 49 percent of the judges responded to the survey. She said that if the busiest judges did not have time to respond to the survey, the NCSC workload study relied upon by the advisory committee was flawed.

November 12, 2003, Meeting

Jurisdiction of Judges. The Committee discussed whether changing the jurisdiction of magistrates, district associate judges, and associate juvenile judges would solve some of the judicial workload disparity. Judge John Nahra of the Iowa Judges Association stated that in some judicial districts, judges need to be assigned more efficiently to areas that are the most overburdened. He also commented that increasing the jurisdiction of limited jurisdiction judges who are overburdened anyway is problematic if their compensation remains the same. The requirement of replacing a vacant district judgeship with another district judge should be changed, noted Mr. Joe Holland of the Iowa State Bar Association. He suggested some judicial districts may become more efficient if the district replaced a district judge with four magistrates. Mr. Fred James, representing the Iowa Trial Lawyers Association, said that if the Legislature had fully funded the courts over the past 20 years, this Committee would not be meeting.

Voluntary Transfers of Judges. Mr. David Boyd, State Court Administrator, presented the results of an anonymous survey asking district court and district associate court judges whether the judge would be willing to voluntarily transfer districts. The survey specifically asked judges in the 1st, 2nd, 3rd, and 8th districts whether the judge would very likely transfer, would consider transferring, or would not be willing to transfer to either the 4th, 5th, 6th, or 7th district. As of the meeting a total of 34 district judges responded to the survey, three district judges responded they would very likely be willing to transfer, 10 district judges responded they would consider transferring, and 21 district judges would not be willing to transfer. In district associate court, three district associate judges responded they would very likely transfer, 11 district associate judges would consider transferring, and 14 district associate judges would not be willing to transfer. Mr. Boyd commented that it may be unconstitutional for a judge to be nominated by a judicial district nominating commission of one district, retained by the voters of that district, and then transferred to another district where the voters have not retained that judge. He noted that the constitutional problem is not as great with a district associate judge transferring from one district to another, but that a constitutional problem may still exist if such a transfer occurred.

Technology and the Courts. Mr. Boyd spoke about the use and availability of technology to improve communication efforts and its effect on the allocation of Judicial Branch resources. He commented that the Judicial Branch is attempting to move forward with its electronic data management system. The system would digitize all court records, provide electronic filing, and provide for electronic access of court records and files. Mr. Boyd also commented that the court would like to have Iowa Communications Network access in all courthouses. Mr. Jay Eaton of the Iowa State Bar Association asked whether electronic filing would result in financial savings to the Judicial Branch. Mr. Boyd responded that technology has never led to a direct elimination of positions, but has only slowed the growth for additional staff.

Redistricting Judicial Districts. The Committee discussed the need to accurately measure judicial workload. Justice Marsha Ternus commented that if you compare the statutory formula with the NCSC judicial workload

study, the conclusion is the same - there is a judicial workload disparity between districts. Senator Kreiman commented that he is not ready to shift judicial resources until best practices are implemented by each district. Justice Ternus commented that every district thinks their district has implemented best practices. Ms. Rhonda Millhollin, representing the Iowa County Supervisors Association, commented that no one has proven that redistricting would make the Judicial Branch more efficient. Justice Ternus stated that the goal of redistricting is not to save money, it is to place judges in areas around the state where the judges are most needed. Mr. Tom Drew, representing the Iowa State Bar Association, questioned how he can support redistricting if no constituency groups support redistricting.

December 17, 2003, Meeting

Recommendations. The Committee approved inclusion of all of the following in the Committee's 2003 Interim final report:

- That authorization be sought from the Legislative Council to meet again in 2004.
- That the Committee report that it is not in a position to make a recommendation on redistricting the judicial districts.
- That the General Assembly proceed with legislation that would provide the Supreme Court and Judicial Council with the flexibility to move district associate judges and associate juvenile judges between judicial districts as was provided in legislation in the 2003 Legislative Session with respect to district judges.
- That the General Assembly move forward with legislation that would require all newly appointed magistrates to be an attorney; provided, however, current nonlawyer magistrates would not lose their position and would be eligible to apply and be reappointed as a magistrate.
- That a magistrate be allowed to be a resident of another county when applying for a magistrate position but must be a resident of the county upon appointment.
- That a magistrate be allowed to serve as magistrate in a county contiguous to the magistrate's county of residence.
- That the Supreme Court adopt a rule permitting litigants in a civil case to waive the Rules of Civil Procedure and apply small claims rules and procedure in district court.
- That the Supreme Court establish an early dispositional court pilot project in criminal cases.